

2009 DRAFTING REQUEST

Bill

Received: **09/03/2009**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Joe Parisi (608) 266-5342**

By/Representing: **Mike**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - collective bargain**
Employ Pub - retirement

Extra Copies: **CMH**

Submit via email: **YES**

Requester's email: **Rep.Parisi@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

POP status for institutional employees under the WRS and collective bargaining

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L Retire
/1	rchampag 09/16/2009	csicilia 09/21/2009	jfrantze 09/21/2009	_____	cduerst 09/21/2009		S&L Retire
/2	rchampag 09/23/2009	csicilia 09/25/2009	mduchek 09/25/2009	_____	cduerst 09/25/2009		S&L Retire
/3	rchampag	csicilia	jfrantze	_____	mbarman	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	10/05/2009	10/08/2009	10/08/2009	_____	10/08/2009	12/10/2009	

FE Sent For:

at into
12/18/09

<END>

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13 9/5 10/7 10/17 10/17

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FE Sent For:

12 cjs 9/25
Og

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/?	rchampag						
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1 gjs 9/11/09 9/21/09
[Signatures]

FE Sent For:

<END>

Champagne, Rick

From: Hanaman, Cathlene
Sent: Thursday, September 03, 2009 11:02 AM
To: Champagne, Rick
Subject: FW: Prot status proposal
Attachments: POP Language (ALL).doc

One quick glance shows something in chapter 40--do we share this draft?

From: Murray, Mike
Sent: Thursday, September 03, 2009 10:59 AM
To: Hanaman, Cathlene
Subject: FW: Prot status proposal

Hey Cathlene,

Joe wants to draft and introduce legislation that would make protective status matters a mandatory subject of bargaining for county and state employees who work in any type of secure institution. The groups we are working with this on have already put together drafting instructions that I've attached to this email that should serve as a basis for the draft. I hope that this makes your job easier for this draft (I assume this falls under your subject area purview?). If you have any questions or concerns about this, please don't hesitate to contact me. I know LRB has its own drafting preferences which might lead to some small differences from this proposal.

Anyway, please just let me know if you need anything else on this. I really appreciate all you've done for our office on this.

Mike

Paris!

SECTION 1. 111.70(1)(a) of the statutes is amended to read:

111.70 (1)(a) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents, and the representative of its municipal employees in a collective bargaining unit, to meet and confer at reasonable times, in good faith, with the intention of reaching an agreement, or to resolve questions arising under such an agreement, with respect to hours, wages, and conditions of employment, and with respect to a requirement of the municipal employer for a municipal employee to perform law enforcement and fire fighting services under s. 61.66, ~~and for a school district with respect to any matter under sub. (4)(n), | and for a county jail employee with respect to any matter under sub. (4)(n)(m).~~ except as provided in sub. (4)(m) and s. 40.81(3) and except that a municipal employer shall not meet and confer with respect to any proposal to diminish or abridge the rights guaranteed to municipal employees under ch. 164. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The municipal employer shall not be required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours, and conditions of employment of the municipal employees in a collective bargaining unit. In creating this subchapter the legislature recognizes that

Comment [o1]: 2009 Assembly Bill
95

the municipal employer must exercise its powers and responsibilities to act for the government and good order of the jurisdiction it serves, its commercial benefit and the health, safety, and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to municipal employees by the constitutions of this state and of the United States and by this subchapter.

SECTION 2. 111.70(4)(n)(m) of the statutes is amended to read:

111.70(4)(n) *Mandatory subjects of bargaining.* In a school district, in addition to any subject of bargaining on which the municipal employer is required to bargain under sub(1)(a), the municipal employer is required to bargain collectively with respect to time spent during the school day, separate from pupil contact time, to prepare lessons, labs, or educational materials, to confer or collaborate with other staff, or to complete administrative duties.

Comment [o2]: 2009 Assembly Bill
95

111.70 (4)(n)(m) In a county, in addition to any subject of bargaining on which the municipal employer is required to bargain under sub(1)(a), the municipal employer is required to bargain collectively with respect to the protective occupation participation status as provided in s. 40.02. for county jail employees.

SECTION 3. 111.91 of the statutes is amended to read:

111.91 **Subjects of bargaining. (1)** (a) Except as provided in pars. (b) to (e), matters subject to collective bargaining to the point of impasse are wage rates, consistent with sub. (2), the assignment and reassignment of classifications to pay ranges, determination of an incumbent's pay status resulting from position reallocation or reclassification, and pay adjustments upon temporary assignment of classified employees to duties of a higher classification or downward reallocations of a classified employees position; fringe benefits consistent with sub. (2); hours and conditions of employment; and protective occupation participant status under s. 40.02 for individuals employed by a for a state correctional facility, a juvenile correctional facility, as defined in s. 938.02(10p), a mental health institute specified in s. 51.05(1), the Wisconsin Resource Center, established under s. 46.056, or a secure mental health unit or facility, established under s. 980.065(2).

SECTION 4. 40.02(48)(am)(23) of the statutes is amended to read:

40.02(48)(am) "Protective occupation participant" includes any participant whose name is certified to the fund as provided in s. 40.06 (1) (d) and (dm) and who is any of the following:

1. A conservation warden.
2. A conservation patrol boat captain.
3. A conservation patrol boat engineer.

4. A conservation pilot.
5. A conservation patrol officer.
6. A forest fire control assistant.
7. A member of the state traffic patrol.
8. A state motor vehicle inspector.
9. A police officer.
10. A fire fighter.
11. A sheriff.
12. An undersheriff.
13. A deputy sheriff.
14. A state probation and parole officer.
15. A county traffic police officer.
16. A state forest ranger.
17. A fire watcher employed at Wisconsin veterans facilities.
18. A state correctional-psychiatric officer.
19. An excise tax investigator employed by the department of revenue.
20. A special criminal investigation agent in the department of justice.
21. An assistant or deputy fire marshal.
22. A person employed under s. 61.66 (1).
23. A participant employed at a county jail or state correctional facility, a juvenile correctional facility, as defined in s. 938.02(10p).

a mental health institute specified in s. 51.05(1), the Wisconsin Resource Center, established under s. 46.056, or a secure mental health unit or facility, established under s. 980.065(2), if provided for in the applicable collective bargaining agreement.

SECTION 4. 40.02(48)(c)(cm) of the statutes is created to read:

40.02(48)(c) In s. 40.65, "protective occupation participant" means a participating employee who is a police officer, fire fighter, an individual determined by a participating employer under par. (a) or (bm) to be a protective occupation participant, county undersheriff, deputy sheriff, state probation and parole officer, county traffic police officer, conservation warden, state forest ranger, field conservation employee of the department of natural resources who is subject to call for forest fire control or warden duty, member of the state traffic patrol, state motor vehicle inspector, University of Wisconsin System full-time police officer, guard or any other employee whose principal duties are supervision and discipline of inmates at a state penal institution, excise tax investigator employed by the department of revenue, person employed under s. 61.66 (1), or special criminal investigation agent employed by the department of justice.

40.02(48)(cm) In s. 40.65, "protective occupation participant" includes a participating employee determined by an applicable collective bargaining agreement to be a protective occupation participant under s. 40.02(48)(am)(23).



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3372/1

RAC: /.....

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2009 BILL

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1 AN ACT ~~relating to:~~ collective bargaining and protective occupation
2 participant status under the Wisconsin Retirement System for county jail
3 employees and state employees who are employed at state correctional
4 institutions, juvenile correctional facilities, the mental health institutes at
5 Mendota and Winnebago, the Wisconsin Resource Center, and secure mental
6 health units or facilities for sexually violent persons.

Analysis by the Legislative Reference Bureau

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill classifies county jail employees and state employees who are employed at state correctional institutions, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or secure

BILL

mental health units or facilities for sexually violent persons, as protective occupation participants, but only if collective bargaining agreements covering the employees require the employees to become protective occupation participants.

In addition, the bill makes protective occupation participant status under the WRS for these specific employees a mandatory subject of collective bargaining under the Municipal Employment Relations Act and the State Employees Labor Relations Act. A mandatory subject of collective bargaining is one primarily related to wages, hours, and conditions of employment over which the employer is required to bargain.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill. ✓

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

^

x

1 **SECTION 1.** 40.02 (17) (n) of the statutes is created to read:

2 40.02 (17) (n) Notwithstanding par. (d), each participant who is employed at
3 a state correctional institution, a juvenile correctional facility, as defined in s. 938.02
4 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource
5 Center established under s. 46.056, or a secure mental health unit or facility
6 established under s. 980.065 (2) and who is classified as a protective occupation
7 participant pursuant to a collective bargaining agreement entered into under subch.
8 V of ch. 111 shall not be granted creditable service as a protective occupation
9 participant for any covered service while employed at a state correctional institution,
10 a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute
11 specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056,
12 or a secure mental health unit or facility established under s. 980.065 (2) that was
13 earned before the participant was classified as a protective occupation participant
14 for such covered service, unless that prior covered service was earned while the

BILL

participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective occupation participant.

SECTION 2. 40.02 (17) (p) of the statutes is created to read:

40.02 (17) (p) Notwithstanding par. (d), each participant who is a county jail employee and who is classified as a protective occupation participant pursuant to a collective bargaining agreement entered into under subch. IV of ch. 111 shall not be granted creditable service as a protective occupation participant for any such covered service while a county jail employee that was earned before the participant was classified as a protective occupation participant for such covered service, unless that prior covered service was earned while the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective occupation participant.

SECTION 3. 40.02 (48) (bc) of the statutes is created to read:

40.02 (48) (bc) "Protective occupation participant" includes any participant who is employed at a state correctional institution, a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure mental health unit or facility established under s. 980.065 (2) if the participant's employer classifies the participant as a protective occupation participant pursuant to a collective bargaining agreement entered into under subch. V of ch. 111 and the department receives notification of the participant's name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a), an employer shall classify such a participant as a protective occupation participant without making a determination that the principal duties of the participant involve active law enforcement or active fire suppression or prevention.

SECTION 4. 40.02 (48) (bd) of the statutes is created to read:

BILL**SECTION 4**

1 40.02 (48) (bd) "Protective occupation participant" includes any participant
2 who is a county jail employee if the participant's employer classifies the participant
3 as a protective occupation participant pursuant to a collective bargaining
4 agreement entered into under subch. IV of ch. 111 and the department receives
5 notification of the participant's name as provided in s. 40.06 (1) (d) and (dm).
6 Notwithstanding par. (a), an employer shall classify such a participant as a
7 protective occupation participant without making a determination that the principal
8 duties of the participant involve active law enforcement or active fire suppression or
9 prevention.

10 **SECTION 5.** 40.02 (48) (c) of the statutes is amended to read:

11 40.02 (48) (c) In s. 40.65, "protective occupation participant" means a
12 participating employee who is a police officer, fire fighter, an individual determined
13 by a participating employer under par. (a), (bc), (bd), or (bm) to be a protective
14 occupation participant, county undersheriff, deputy sheriff, state probation and
15 parole officer, county traffic police officer, conservation warden, state forest ranger,
16 field conservation employee of the department of natural resources who is subject to
17 call for forest fire control or warden duty, member of the state traffic patrol, state
18 motor vehicle inspector, University of Wisconsin System full-time police officer,
19 guard or any other employee whose principal duties are supervision and discipline
20 of inmates at a state penal institution, excise tax investigator employed by the
21 department of revenue, person employed under s. 61.66 (1), or special criminal
22 investigation agent employed by the department of justice.

History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109; 2003 a. 33; 2005 a. 153, 335; 2007 a. 20, 131, 226; 2009 a. 15, 28.

23 **SECTION 6.** 40.65 (4v) of the statutes is created to read:

24w

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40.65 (4v) A participant employed at a state correctional institution, a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure mental health unit or facility established under s. 980.065 (2) who becomes a protective occupation participant pursuant to a collective bargaining agreement entered into under subch. V of ch. 111 is not entitled to a duty disability benefit under this section for an injury or disease occurring before the participant became a protective occupation participant.

SECTION 7. 40.65 (4w) of the statutes is created to read:

40.65 (4w) A participant who is a county jail employee and who becomes a protective occupation participant pursuant to a collective bargaining agreement entered into under subch. V of ch. 111 is not entitled to a duty disability benefit under this section for an injury or disease occurring before the participant became a protective occupation participant.

SECTION 8. 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts 28 and 34, is amended to read:

111.70 (1) (a) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents, and the representative of its municipal employees in a collective bargaining unit, to meet and confer at reasonable times, in good faith, with the intention of reaching an agreement, or to resolve questions arising under such an agreement, with respect to wages, hours and conditions of employment, and with respect to a requirement of the municipal employer for a municipal employee to perform law enforcement and fire fighting services under s. 61.66, and for a county with respect to any matter under sub. (4) (np), and for a school district with respect to any matter under sub. (4) (n), except

BILL**SECTION 8**

as provided in subs. (3m), (3p), and (4) (m) and (mc) and s. 40.81 (3) and except that a municipal employer shall not meet and confer with respect to any proposal to diminish or abridge the rights guaranteed to municipal employees under ch. 164. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The municipal employer shall not be required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours and conditions of employment of the municipal employees in a collective bargaining unit. In creating this subchapter the legislature recognizes that the municipal employer must exercise its powers and responsibilities to act for the government and good order of the jurisdiction which it serves, its commercial benefit and the health, safety and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to municipal employees by the constitutions of this state and of the United States and by this subchapter.

NOTE: NOTE: Par. (a) is shown as affected by 2 acts of the 2009 legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). NOTE:

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253; 2007 a. 20; 2009 a. 15, 21, 28, 34; s. 13.92 (2) (i).

SECTION 9. 111.70 (4) (n) (title) of the statutes, as affected by 2009 Wisconsin

Act 34, is amended to read:

111.70 (4) (n) (title) *Mandatory subjects of bargaining; school districts.*

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253; 2007 a. 20; 2009 a. 15, 21, 28, 34; s. 13.92 (2) (i).

SECTION 10. 111.70 (4) (np) of the statutes is created to read:

111.70 (4) (np) *Mandatory subjects of bargaining; counties.* In a county, in addition to any subject of bargaining on which the municipal employer is required to bargain under sub. (1) (a), the municipal employer is required to bargain

BILL

1 collectively with respect to protective occupation participant status under s. 40.02 ✓
2 for county jail employees.

3 **SECTION 11.** 111.91 (1) (ab) [^] of the statutes is created to read: ✕

4 111.91 (1) (ab) In collective bargaining units including individuals employed
5 at a state correctional institution, a juvenile correctional facility, as defined in s.
6 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin
7 Resource Center^e established under s. 46.056, or a secure mental health unit or
8 facility^e established under s. 980.065 (2), the right of these individuals to be classified
9 as protective occupation participants under s. 40.02 [✓] is a mandatory subject of
10 bargaining.

11 (END)

Champagne, Rick

From: Murray, Mike
Sent: Tuesday, September 22, 2009 10:42 AM
To: Champagne, Rick
Subject: LRB 3372/1- Protective Status Bill

Hi Rick,

Thanks so much for getting that draft to us so quickly. I have only one follow up request for the bill: we were hoping to include correctional staff who work in county juvenile detention facilities for protective status. I didn't see them in the bill I think the drafting memo might have accidentally not included those employees.

Thanks again,

Mike

, as defined in 938.02 (10r),

Mike Murray
Office of Representative Joe Parisi

938.22

juvenile detention facility, as
defined in s. 938.02 (10r),



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3372/1/2
RAC:cjs:jf

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2009 BILL

Stays *RMR*

*county employees of
a juvenile detention
facility*

- gen. cat

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1 AN ACT *to amend* 40.02 (48) (c), 111.70 (1) (a) and 111.70 (4) (n) (title); and *to*
2 *create* 40.02 (17) (n), 40.02 (17) (p), 40.02 (48) (bc), 40.02 (48) (bd), 40.65 (4w),
3 40.65 (4x), 111.70 (4) (np) and 111.91 (1) (ab) of the statutes; **relating to:**
4 collective bargaining and protective occupation participant status under the
5 Wisconsin Retirement System for county jail employees and state employees
6 who are employed at state correctional institutions, juvenile correctional
7 facilities, the mental health institutes at Mendota and Winnebago, the
8 Wisconsin Resource Center, and secure mental health units or facilities for
9 sexually violent persons.

Analysis by the Legislative Reference Bureau

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of

BILL

1 county employees of a
juvenile detention facility

other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill classifies county jail employees and state employees who are employed at state correctional institutions, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or secure mental health units or facilities for sexually violent persons, as protective occupation participants, but only if collective bargaining agreements covering the employees require the employees to become protective occupation participants.

In addition, the bill makes protective occupation participant status under the WRS for these specific employees a mandatory subject of collective bargaining under the Municipal Employment Relations Act and the State Employees Labor Relations Act. A mandatory subject of collective bargaining is one primarily related to wages, hours, and conditions of employment over which the employer is required to bargain.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.02 (17) (n) of the statutes is created to read:

2 40.02 (17) (n) Notwithstanding par. (d), each participant who is employed at
3 a state correctional institution, a juvenile correctional facility, as defined in s. 938.02
4 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource
5 Center established under s. 46.056, or a secure mental health unit or facility
6 established under s. 980.065 (2) and who is classified as a protective occupation
7 participant pursuant to a collective bargaining agreement entered into under subch.
8 V of ch. 111 shall not be granted creditable service as a protective occupation
9 participant for any covered service while employed at a state correctional institution,
10 a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute
11 specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056,
12 or a secure mental health unit or facility established under s. 980.065 (2) that was

BILL

1 earned before the participant was classified as a protective occupation participant
2 for such covered service, unless that prior covered service was earned while the
3 participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective
4 occupation participant.

5 **SECTION 2.** 40.02 (17) (p) of the statutes is created to read:

or a county employee of
a juvenile detention
facility

6 40.02 (17) (p) Notwithstanding par. (d), each participant who is a county jail
7 employee and who is classified as a protective occupation participant pursuant to a
8 collective bargaining agreement entered into under subch. IV of ch. 111 shall not be
9 granted creditable service as a protective occupation participant for any covered
10 service while a county jail employee that was earned before the participant was
11 classified as a protective occupation participant for such covered service, unless that
12 prior covered service was earned while the participant was classified under sub. (48)
13 (a) and s. 40.06 (1) (d) as a protective occupation participant.

14 **SECTION 3.** 40.02 (48) (bc) of the statutes is created to read:

15 40.02 (48) (bc) "Protective occupation participant" includes any participant
16 who is employed at a state correctional institution, a juvenile correctional facility, as
17 defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the
18 Wisconsin Resource Center established under s. 46.056, or a secure mental health
19 unit or facility established under s. 980.065 (2) if the participant's employer classifies
20 the participant as a protective occupation participant pursuant to a collective
21 bargaining agreement entered into under subch. V of ch. 111 and the department
22 receives notification of the participant's name as provided in s. 40.06 (1) (d) and (dm).
23 Notwithstanding par. (a), an employer shall classify such a participant as a
24 protective occupation participant without making a determination that the principal

or a county employee of a juvenile detention facility as
defined in s. 938.02 (10p)

BILL

SECTION 3

1 duties of the participant involve active law enforcement or active fire suppression or
2 prevention.

3 **SECTION 4.** 40.02 (48) (bd) of the statutes is created to read:

4 40.02 (48) (bd) "Protective occupation participant" includes any participant
5 who is a county jail employee if the participant's employer classifies the participant
6 as a protective occupation participant pursuant to a collective bargaining agreement
7 entered into under subch. IV of ch. 111 and the department receives notification of
8 the participant's name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par.
9 (a), an employer shall classify such a participant as a protective occupation
10 participant without making a determination that the principal duties of the
11 participant involve active law enforcement or active fire suppression or prevention.

12 **SECTION 5.** 40.02 (48) (c) of the statutes is amended to read:

13 40.02 (48) (c) In s. 40.65, "protective occupation participant" means a
14 participating employee who is a police officer, fire fighter, an individual determined
15 by a participating employer under par. (a), (bc), (bd), or (bm) to be a protective
16 occupation participant, county undersheriff, deputy sheriff, state probation and
17 parole officer, county traffic police officer, conservation warden, state forest ranger,
18 field conservation employee of the department of natural resources who is subject to
19 call for forest fire control or warden duty, member of the state traffic patrol, state
20 motor vehicle inspector, University of Wisconsin System full-time police officer,
21 guard or any other employee whose principal duties are supervision and discipline
22 of inmates at a state penal institution, excise tax investigator employed by the
23 department of revenue, person employed under s. 61.66 (1), or special criminal
24 investigation agent employed by the department of justice.

25 **SECTION 6.** 40.65 (4w) of the statutes is created to read:

Insert 4-25

or a county employee of a juvenile detention facility as defined in s. 938.02 (10r) or 10r

BILL

1 40.65 (4w) A participant employed at a state correctional institution, a juvenile
2 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified
3 in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure
4 mental health unit or facility established under s. 980.065 (2) who becomes a
5 protective occupation participant pursuant to a collective bargaining agreement
6 entered into under subch. V of ch. 111 is not entitled to a duty disability benefit under
7 this section for an injury or disease occurring before the participant became a
8 protective occupation participant.

9 **SECTION 7.** 40.65 (4x) of the statutes is created to read:

10 40.65 (4x) A participant who is a county jail employee and who becomes a
11 protective occupation participant pursuant to a collective bargaining agreement
12 entered into under subch. IV of ch. 111 is not entitled to a duty disability benefit
13 under this section for an injury or disease occurring before the participant became
14 a protective occupation participant.

15 **SECTION 8.** 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts 28
16 and 34, is amended to read:

17 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
18 obligation of a municipal employer, through its officers and agents, and the
19 representative of its municipal employees in a collective bargaining unit, to meet and
20 confer at reasonable times, in good faith, with the intention of reaching an
21 agreement, or to resolve questions arising under such an agreement, with respect to
22 wages, hours and conditions of employment, and with respect to a requirement of the
23 municipal employer for a municipal employee to perform law enforcement and fire
24 fighting services under s. 61.66, and for a county with respect to any matter under
25 sub. (4) (np), and for a school district with respect to any matter under sub. (4) (n),

or a county employee at a juvenile detention facility, as
defined in s. 938.02 (10p) or

BILL**SECTION 8**

1 except as provided in subs. (3m), (3p), and (4) (m) and (mc) and s. 40.81 (3) and except
2 that a municipal employer shall not meet and confer with respect to any proposal to
3 diminish or abridge the rights guaranteed to municipal employees under ch. 164.
4 The duty to bargain, however, does not compel either party to agree to a proposal or
5 require the making of a concession. Collective bargaining includes the reduction of
6 any agreement reached to a written and signed document. The municipal employer
7 shall not be required to bargain on subjects reserved to management and direction
8 of the governmental unit except insofar as the manner of exercise of such functions
9 affects the wages, hours and conditions of employment of the municipal employees
10 in a collective bargaining unit. In creating this subchapter the legislature recognizes
11 that the municipal employer must exercise its powers and responsibilities to act for
12 the government and good order of the jurisdiction which it serves, its commercial
13 benefit and the health, safety and welfare of the public to assure orderly operations
14 and functions within its jurisdiction, subject to those rights secured to municipal
15 employees by the constitutions of this state and of the United States and by this
16 subchapter.

17 **SECTION 9.** 111.70 (4) (n) (title) of the statutes, as created by 2009 Wisconsin
18 Act 34, is amended to read:

19 111.70 (4) (n) (title) *Mandatory subjects of bargaining; school districts.*

20 **SECTION 10.** 111.70 (4) (np) of the statutes is created to read:

21 111.70 (4) (np) *Mandatory subjects of bargaining; counties.* In a county, in
22 addition to any subject of bargaining on which the municipal employer is required
23 to bargain under sub. (1) (a), the municipal employer is required to bargain
24 collectively with respect to protective occupation participant status under s. 40.02 for
25 county jail employees

and for county employees of a
juvenile detention facility, as defined in
s. 938.02 (10r)

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1 **SECTION 11.** 111.91 (1) (ab) of the statutes is created to read:

111.91 (1) (ab) In collective bargaining units including individuals employed at a state correctional institution, a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure mental health unit or facility established under s. 980.065 (2), the right of these individuals to be classified as protective occupation participants under s. 40.02 is a mandatory subject of bargaining.

9 (END)

4-25

Section #. 40.06 (1) (dm) of the statutes is amended to read:

X

40.06 (1) (dm) Each determination by a department head regarding the classification of a state employee as a protective occupation participant shall be reviewed by the office of state employment relations. ~~A~~ state employee's name may not be certified to the fund as a protective occupation participant under par. (d) until the office of state employment relations approves the determination.

History: 1981 c. 96, 386; 1983 a. 290, 368; 1987 a. 309; 1989 a. 13, 31, 166, 218; 1991 a. 152, 315; 1995 a. 27; 1999 a. 83; 2003 a. 33 ss. 1016, 9160; 2005 a. 153.

Unless otherwise provided in a collective bargaining
agreement under subch. V of ch. 111, a

Champagne, Rick

From: Murray, Mike
Sent: Thursday, October 01, 2009 3:16 PM
To: Champagne, Rick
Subject: RE: LRB 3372/1- Protective Status Bill

Hi Rick,
I'm really sorry to do this, but the folks we are working with on the bill just realized they forgot to include Milwaukee Co. jailers in their drafting request. If you could include corrections staff who are covered under the Milwaukee pension system in a new draft, we would really appreciate it.

Again, sorry for not catching this the first time around. Thanks for your help,

Mike

From: Champagne, Rick
Sent: Tuesday, September 22, 2009 10:44 AM
To: Murray, Mike
Subject: RE: LRB 3372/1- Protective Status Bill

Hi Mike:

I'll do another version for you and include those folks.

Rick

From: Murray, Mike
Sent: Tuesday, September 22, 2009 10:42 AM
To: Champagne, Rick
Subject: LRB 3372/1- Protective Status Bill

Hi Rick,

Thanks so much for getting that draft to us so quickly. I have only one follow up request for the bill: we were hoping to include correctional staff who work in county juvenile detention facilities for protective status. I didn't see them in the bill I think the drafting memo might have accidentally not included those employees.

Thanks again,

Mike

Mike Murray
Office of Representative Joe Parisi



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3372/Z 3

RAC:cjs:md

Stays RMR

Soon
2009 BILL

CAV

- gen. cat.

1 AN ACT *to amend* 40.02 (48) (c), 40.06 (1) (dm), 111.70 (1) (a) and 111.70 (4) (n)
2 (title); and *to create* 40.02 (17) (n), 40.02 (17) (p), 40.02 (48) (bc), 40.02 (48) (bd),
3 40.65 (4w), 40.65 (4x), 111.70 (4) (np) and 111.91 (1) (ab) of the statutes;
4 **relating to:** collective bargaining and protective occupation participant status
5 under the Wisconsin Retirement System *and a county retirement system* for county jail employees, county
6 employees of a juvenile detention facility, and state employees who are
7 employed at state correctional institutions, juvenile correctional facilities, the
8 mental health institutes at Mendota and Winnebago, the Wisconsin Resource
9 Center, and secure mental health units or facilities for sexually violent persons.

Analysis by the Legislative Reference Bureau

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of

BILL

other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill classifies county jail employees, county employees of a juvenile detention facility, and state employees who are employed at state correctional institutions, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or secure mental health units or facilities for sexually violent persons, as protective occupation participants, but only if collective bargaining agreements covering the employees require the employees to become protective occupation participants.

In addition, the bill makes protective occupation participant status under the WRS for these specific employees a mandatory subject of collective bargaining under the Municipal Employment Relations Act and the State Employees Labor Relations Act. A mandatory subject of collective bargaining is one primarily related to wages, hours, and conditions of employment over which the employer is required to bargain.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.02 (17) (n) of the statutes is created to read:

40.02 (17) (n) Notwithstanding par. (d), each participant who is employed at a state correctional institution, a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure mental health unit or facility established under s. 980.065 (2) and who is classified as a protective occupation participant pursuant to a collective bargaining agreement entered into under subch. V of ch. 111 shall not be granted creditable service as a protective occupation participant for any covered service while employed at a state correctional institution, a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure mental health unit or facility established under s. 980.065 (2) that was

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1 earned before the participant was classified as a protective occupation participant
2 for such covered service, unless that prior covered service was earned while the
3 participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective
4 occupation participant.

5 **SECTION 2.** 40.02 (17) (p) of the statutes is created to read:

6 40.02 (17) (p) Notwithstanding par. (d), each participant who is a county jail
7 employee or a county employee of a juvenile detention facility, as defined in s. 938.02
8 (10r), and who is classified as a protective occupation participant pursuant to a
9 collective bargaining agreement entered into under subch. IV of ch. 111 shall not be
10 granted creditable service as a protective occupation participant for any covered
11 service while a county jail employee or a county employee of a juvenile detention
12 facility that was earned before the participant was classified as a protective
13 occupation participant for such covered service, unless that prior covered service was
14 earned while the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as
15 a protective occupation participant.

16 **SECTION 3.** 40.02 (48) (bc) of the statutes is created to read:

17 40.02 (48) (bc) "Protective occupation participant" includes any participant
18 who is employed at a state correctional institution, a juvenile correctional facility, as
19 defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the
20 Wisconsin Resource Center established under s. 46.056, or a secure mental health
21 unit or facility established under s. 980.065 (2) if the participant's employer classifies
22 the participant as a protective occupation participant pursuant to a collective
23 bargaining agreement entered into under subch. V of ch. 111 and the department
24 receives notification of the participant's name as provided in s. 40.06 (1) (d) and (dm).
25 Notwithstanding par. (a), an employer shall classify such a participant as a

BILL**SECTION 3**

1 protective occupation participant without making a determination that the principal
2 duties of the participant involve active law enforcement or active fire suppression or
3 prevention.

4 **SECTION 4.** 40.02 (48) (bd) of the statutes is created to read:

5 40.02 (48) (bd) "Protective occupation participant" includes any participant
6 who is a county jail employee or a county employee of a juvenile detention facility,
7 as defined in s. 938.02 (10r), if the participant's employer classifies the participant
8 as a protective occupation participant pursuant to a collective bargaining agreement
9 entered into under subch. IV of ch. 111 and the department receives notification of
10 the participant's name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par.
11 (a), an employer shall classify such a participant as a protective occupation
12 participant without making a determination that the principal duties of the
13 participant involve active law enforcement or active fire suppression or prevention.

14 **SECTION 5.** 40.02 (48) (c) of the statutes is amended to read:

15 40.02 (48) (c) In s. 40.65, "protective occupation participant" means a
16 participating employee who is a police officer, fire fighter, an individual determined
17 by a participating employer under par. (a), (bc), (bd), or (bm) to be a protective
18 occupation participant, county undersheriff, deputy sheriff, state probation and
19 parole officer, county traffic police officer, conservation warden, state forest ranger,
20 field conservation employee of the department of natural resources who is subject to
21 call for forest fire control or warden duty, member of the state traffic patrol, state
22 motor vehicle inspector, University of Wisconsin System full-time police officer,
23 guard or any other employee whose principal duties are supervision and discipline
24 of inmates at a state penal institution, excise tax investigator employed by the

BILL

1 department of revenue, person employed under s. 61.66 (1), or special criminal
2 investigation agent employed by the department of justice.

3 **SECTION 6.** 40.06 (1) (dm) of the statutes is amended to read:

4 40.06 (1) (dm) Each determination by a department head regarding the
5 classification of a state employee as a protective occupation participant shall be
6 reviewed by the office of state employment relations. ~~A~~ Unless otherwise provided
7 in a collective bargaining agreement under subch. V of ch. 111, a state employee's
8 name may not be certified to the fund as a protective occupation participant under
9 par. (d) until the office of state employment relations approves the determination.

10 **SECTION 7.** 40.65 (4w) of the statutes is created to read:

11 40.65 (4w) A participant employed at a state correctional institution, a juvenile
12 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified
13 in s. 51.05 (1), the Wisconsin Resource Center established under s. 46.056, or a secure
14 mental health unit or facility established under s. 980.065 (2) who becomes a
15 protective occupation participant pursuant to a collective bargaining agreement
16 entered into under subch. V of ch. 111 is not entitled to a duty disability benefit under
17 this section for an injury or disease occurring before the participant became a
18 protective occupation participant.

19 **SECTION 8.** 40.65 (4x) of the statutes is created to read:

20 40.65 (4x) A participant who is a county jail employee or a county employee of
21 a juvenile detention facility, as defined in s. 938.02 (10r), and who becomes a
22 protective occupation participant pursuant to a collective bargaining agreement
23 entered into under subch. IV of ch. 111 is not entitled to a duty disability benefit
24 under this section for an injury or disease occurring before the participant became
25 a protective occupation participant.

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1 **SECTION 9.** 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts 28
2 and 34, is amended to read:

3 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
4 obligation of a municipal employer, through its officers and agents, and the
5 representative of its municipal employees in a collective bargaining unit, to meet and
6 confer at reasonable times, in good faith, with the intention of reaching an
7 agreement, or to resolve questions arising under such an agreement, with respect to
8 wages, hours and conditions of employment, and with respect to a requirement of the
9 municipal employer for a municipal employee to perform law enforcement and fire
10 fighting services under s. 61.66, and for a county with respect to any matter under
11 sub. (4) (np), and for a school district with respect to any matter under sub. (4) (n),
12 except as provided in subs. (3m), (3p), and (4) (m) and (mc) and s. 40.81 (3) and except
13 that a municipal employer shall not meet and confer with respect to any proposal to
14 diminish or abridge the rights guaranteed to municipal employees under ch. 164.
15 The duty to bargain, however, does not compel either party to agree to a proposal or
16 require the making of a concession. Collective bargaining includes the reduction of
17 any agreement reached to a written and signed document. The municipal employer
18 shall not be required to bargain on subjects reserved to management and direction
19 of the governmental unit except insofar as the manner of exercise of such functions
20 affects the wages, hours and conditions of employment of the municipal employees
21 in a collective bargaining unit. In creating this subchapter the legislature recognizes
22 that the municipal employer must exercise its powers and responsibilities to act for
23 the government and good order of the jurisdiction which it serves, its commercial
24 benefit and the health, safety and welfare of the public to assure orderly operations
25 and functions within its jurisdiction, subject to those rights secured to municipal

BILL

1 employees by the constitutions of this state and of the United States and by this
2 subchapter.

3 **SECTION 10.** 111.70 (4) (n) (title) of the statutes, as created by 2009 Wisconsin
4 Act 34, is amended to read:

5 111.70 (4) (n) (title) *Mandatory subjects of bargaining; school districts.*

6 **SECTION 11.** 111.70 (4) (np) of the statutes is created to read:

7 111.70 (4) (np) *Mandatory subjects of bargaining; counties.* In a county, in
8 addition to any subject of bargaining on which the municipal employer is required
9 to bargain under sub. (1) (a), the municipal employer is required to bargain
10 collectively with respect to protective occupation participant status under s. 40.02 for
11 county jail employees and for county employees of a juvenile detention facility, as
12 defined in s. 938.02 (10r). ↗

13 **SECTION 12.** 111.91 (1) (ab) of the statutes is created to read:

14 111.91 (1) (ab) In collective bargaining units including individuals employed
15 at a state correctional institution, a juvenile correctional facility, as defined in s.
16 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin
17 Resource Center established under s. 46.056, or a secure mental health unit or
18 facility established under s. 980.065 (2), the right of these individuals to be classified
19 as protective occupation participants under s. 40.02 is a mandatory subject of
20 bargaining.

21 (END)

Insert 7-12

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3372/3ins
RAC:cjs:md

Insert 7-12:

no 4

If a county jail ^{employee} or ^a county juvenile detention facility employee is covered by a county retirement system, the municipal employer is required to bargain collectively with respect to protective occupation participant status for the employee, if such status is available under that retirement system. ✓

Parisi, Lori

From: Murray, Mike
Sent: Thursday, December 10, 2009 12:29 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3372/3 Topic: POP status for institutional employees under the WRS and collective bargaining

Please Jacket LRB 09-3372/3 for the ASSEMBLY.